



Journal of the Senate

State of Indiana

114th General Assembly

Second Regular Session

Eighth Meeting Day

Monday Afternoon

January 23, 2006

The Senate convened at 1:34 p.m., with the President Pro Tempore of the Senate, Robert D. Garton, in the Chair.

The Senate Reader was directed to read the previously read section of the District Court's Order in *Hinrichs v. Bosma*, as set out in full in the Senate Journal of January 9, 2006.

Silent prayer followed the reading.

The Pledge of Allegiance to the Flag was led by the President Pro Tempore of the Senate.

The Chair ordered the roll of the Senate to be called. Those present were:

Alting	Long
Becker <input checked="" type="checkbox"/>	Lubbers
Bowser	Lutz
Bray	Meeks
Breaux	Merritt
Broden	Miller
Craycraft	Mishler
Delph	Mrvan
Dillon	Nugent
Drozda	Paul
Ford	Riegsecker
Gard	Rogers
Garton	Simpson
Harrison	Sipes
Heinold	Skinner
Hershman	Smith
Howard	Steele <input checked="" type="checkbox"/>
Hume	Tallian
Jackman <input checked="" type="checkbox"/>	Waltz
Kenley	Waterman
Kruse	Weatherwax
Lanane	Wyss
Landske	Young, M.
Lawson	Young, R.
Lewis	Zakas

Roll Call 20: present 47; excused 3. [Note: A ☒ indicates those who were excused.] The Chair announced a quorum present. Pursuant to Senate Rule 5(d), no motion having been heard, the Journal of the previous day was considered read.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Madam President: The Senate Committee on Natural Resources, to which was referred Senate Bill 253, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 3, line 17, after "licensing" insert ", including temporary structures,".

(Reference is to SB 253 as introduced.)
and when so amended that said bill do pass.
Committee Vote: Yeas 6, Nays 0.

WEATHERWAX, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Natural Resources, to which was referred Senate Bill 94, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 6, Nays 0.

WEATHERWAX, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Natural Resources, to which was referred Senate Bill 77, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 6, Nays 0.

WEATHERWAX, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Natural Resources, to which was referred Senate Bill 157, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 6, Nays 0.

WEATHERWAX, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Natural Resources, to which was referred Senate Bill 354, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 7, Nays 1.

WEATHERWAX, Chair

Report adopted.

RESOLUTIONS ON SECOND READING

Senate Resolution 3

Senator Delph called up Senate Resolution 3 for second reading. The resolution was read a second time by title and adopted by voice vote.

SENATE MOTION

Madam President: I move that Senator Delph be added as coauthor of Senate Bill 370.

KRUSE

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Harrison be added as coauthor of Senate Bill 321.

KRUSE

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Landske be added as coauthor of Senate Bill 154.

HEINOLD

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator M. Young be added as second author of Senate Bill 356.

STEELE

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Wyss be added as second author of Senate Bill 217.

BRODEN

Motion prevailed.

2:06 p.m.

The Chair declared a recess until the fall of the gavel.

Recess

The Senate reconvened at 4:33 p.m., with Senator Garton in the Chair.

STATEMENT OF THE PRESIDENT PRO TEMPORE OF THE SENATE CONCERNING SENATE BILL 245

The Chair notes that Senator Delph is excused from voting on Senate Bill 245, pursuant to the Report of the Committee on Ethics adopted on January 9, 2006, and asks that it be so recorded in the Journal of the Senate.

GARTON

SENATE BILLS ON SECOND READING

Senate Bill 245

Senator Hershman called up Senate Bill 245 for second reading. The bill was read a second time by title.

SENATE MOTION (Amendment 245-12)

Madam President: I move that Senate Bill 245 be amended to read as follows:

Page 1, delete lines 1 through 15.

Delete page 2.

Page 3, delete lines 1 through 3, begin a new paragraph and insert: "SECTION 1. IC 8-1-1.1-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 5.5. (a) After June 30, 2009, the counselor shall have jurisdiction over the following:**

(1) All duties and responsibilities exercised by the commission's consumer protection division before July 1, 2009, with respect to telecommunications providers.

(2) The responsibilities of the commission under IC 8-1-2.9 to:

(A) approve a telecommunications provider's petition to provide caller ID service; and

(B) approve either per-call or per-line blocking of caller ID service for law enforcement and crisis intervention agencies;

before July 1, 2009.

(b) As necessary to fulfill its duties under this section with respect to telecommunications providers, the counselor may exercise any power available to commission under IC 8-1-2 with respect to public utilities, including the power to investigate a complaint filed by a consumer against a telecommunications provider."

Page 4, line 39, after "enabled" insert "retail".

Page 5, delete lines 8 through 42.

Delete pages 6 through 7.

Page 8, delete line 1.

Page 11, line 37, after "enabled" insert "retail".

Page 12, line 15, delete "The" and insert "Except as otherwise provided under IC 8-1-2-5, the".

Page 13, line 17, delete "A" and insert "Subject to subsection (h), a".

Page 13, line 23, after "increase" insert "in the flat monthly rate".

Page 14, line 9, delete "subsection (e)," and insert "subsections (e) and (h),".

Page 16, between lines 3 and 4, begin a new paragraph and insert: "**(h) If, at any time during the rate transition period, the commission determines in accordance with IC 8-1-2-113 that an emergency exists, the commission may act under IC 8-1-2-113 to temporarily alter, amend, or suspend the limits on the flat monthly rate increases set forth in subsections (c) and (d) if necessary to maintain a provider's financial integrity and ability to provide adequate basic telecommunications service. The commission shall reimplement the limits on flat monthly rate increases, as set forth in subsections (c) and (d), when the commission is satisfied the emergency no longer exists."**

Page 16, line 39, after "actions." insert "This subsection does not affect the commission's authority under IC 8-1-2-5."

Page 17, line 5, delete "47 U.S.C. 252(e);" and insert **"47 U.S.C. 252(e), including the authority to establish service quality metrics and liquidated damages;"**.

Page 17, line 8, delete "or".

Page 17, line 12, delete "article." and insert **"article; or"**.

Page 17, between lines 12 and 13, begin a line block indented and insert:

"(6) the commission's authority to resolve an interconnection dispute between providers under the expedited procedures set forth in 170 IAC 7-7."

Page 18, line 1, delete "hearing;" and insert **hearing, unless:**

(A) the commission determines that an emergency exists that requires the commission or a provider to take immediate action to:

(i) prevent injury to the business or interests of the citizens of Indiana; or

(ii) maintain a provider's financial integrity and ability to provide adequate basic telecommunications service;

(B) the commission is authorized under IC 8-1-2 to adopt a particular rule or issue a particular order without the necessity of a hearing; or

(C) after receiving notice of the commission's proposed action, all parties to a proceeding consent to the commission taking action without a hearing; and"

Page 18, delete line 2.

Page 19, between lines 4 and 5, begin a new paragraph and insert:

"(e) This section does not affect the commission's authority under IC 8-1-2-5."

Page 21, line 28, delete "do either of the following:".

Page 21, line 29, delete "(1) Renegotiate" and insert **"renegotiate"**.

Page 21, run in lines 28 through 29.

Page 21, delete lines 32 through 38.

Page 22, line 17, delete "chapter:" and insert **"chapter, except as otherwise provided in this subsection:"**.

Page 23, line 6, delete "Perform" and insert **"After June 30, 2009, perform"**.

Page 23, line 17, delete "Require" and insert **"After June 30, 2009, require"**.

Page 23, line 18, delete "commission, not more often than quarterly," and insert **"commission on an annual basis, or more frequently at the option of the provider,"**.

Page 24, between lines 19 and 20, begin a new line block indented and insert:

"(11) Perform the commission's duties under IC 8-1-2-5 with respect to interconnection."

Page 24, line 21, delete "division of consumer protection of the" and insert **"office of utility consumer counselor created by IC 8-1-1.1-2,"**.

Page 24, delete line 22.

Page 24, line 23, delete "the division's authority under IC 4-6-9,".

Page 24, line 27, delete "involving the investigation and" and insert **"with respect to telecommunications providers."**

Page 24, delete lines 28 through 29.

Page 24, delete lines 36 through 38.

Page 26, between lines 23 and 24, begin a new paragraph and insert:

"SECTION 27. IC 8-1-2.6-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS

[EFFECTIVE UPON PASSAGE]: Sec. 16. (a) As used in this section, "payphone service provider" means an entity, other than an incumbent local exchange carrier, that owns and operates:

(1) public or semipublic pay telephones; or

(2) pay telephones used to provide telephone service in correctional institutions.

(b) Notwithstanding any other statute, the commission shall retain jurisdiction to establish just and reasonable rates that may be charged by an incumbent local exchange carrier to a payphone service provider. Rates established under this section must be:

(1) based on the costs incurred by the incumbent local exchange carrier to provide the service;

(2) consistent with the requirements of 47 U.S.C. 276;

(3) nondiscriminatory; and

(4) consistent with the pricing guidelines for payphone service providers established by the Federal Communications Commission."

Page 31, line 21, after "chapter," insert **"office" refers to the office of utility consumer counselor created by IC 8-1-1.1-2."**

Page 31, delete lines 22 through 23.

Page 32, line 5, delete "division;" and insert **"office;"**.

Page 32, line 7, delete "division." and insert **"office."**

Page 32, line 14, delete "division" and insert **"office"**.

Page 32, delete lines 15 through 42.

Page 33, delete lines 1 through 15.

Page 60, line 20, delete "division of consumer protection of the office of the" and insert **"office of utility consumer counselor created by IC 8-1-1.1-2."**

Page 60, delete line 21.

Page 61, line 8, delete "division of consumer protection of the office of the" and insert **"office of utility consumer counselor created by IC 8-1-1.1-2."**

Page 61, delete line 9.

Page 64, delete lines 34 through 36.

Page 64, line 37, delete "Sec. 5. As used in this section," and insert **"Sec. 4. As used in this chapter,"**.

Page 65, between lines 2 and 3, begin a new paragraph and insert: **"Sec. 5. As used in this chapter, "office" refers to the office of utility consumer counselor created by IC 8-1-1.1-2."**

Page 66, line 18, delete "division;" and insert **"office;"**.

Page 66, line 19, delete "division" and insert **"office"**.

Page 66, line 23, delete "division." and insert **"office."**

Page 66, line 30, delete "division" and insert **"office"**.

Page 84, line 18, delete "The" and insert **"Except as otherwise provided in this chapter, the"**.

Page 85, line 37, delete "Determines, after conducting," and insert **"Conducts"**.

Page 85, line 38, delete "chapter, that there are not at least two (2) persons that:" and insert **"chapter to determine whether there is any person that:"**.

Page 85, line 39, delete "provide" and insert **"provides"**.

Page 85, line 41, delete "intend" and insert **"intends"**.

Page 86, line 3, delete "Holds" and insert **"Not earlier than ninety (90) days after the deadline specified under section 7(b)(2) of this chapter for all communications service providers to respond to the political subdivision's inquiry under section 7 of this chapter, hold"**.

Page 87, line 2, delete "determines, after conducting" and insert "conducts".

Page 87, line 3, delete "chapter, that there are not at least two (2)" and insert **"chapter to determine whether there is any person that:"**.

Page 87, delete line 4.

Page 87, line 5, delete "provide" and insert **"provides"**.

Page 87, line 7, delete "intend" and insert **"intends"**.

Page 87, line 22, after "must" insert **"**:

(1) inquire as to whether the person:

(A) provides broadband service; or

(B) intends to provide broadband service not later than three (3) months after the date of the political subdivision's written request under this subsection;

in the designated area; and

(2) require the person to respond to the inquiry described in subdivision (1) not later than sixty (60) days after the date the request under this subsection is postmarked.

(c) The political subdivision shall make available:

(1) for public inspection at the appropriate offices of the political subdivision; and

(2) at the public hearing required under section 5(c)(2) of this chapter;

a written summary of the results of the inquiry conducted under this section. However, the summary required under this subsection must not reveal any confidential or proprietary business plans or other confidential information reported by a person under this section. The political subdivision shall exercise all necessary caution to avoid disclosure of confidential information reported by a person under this section, including the redaction of confidential information from the summary."

Page 87, delete lines 23 through 42.

Page 88, delete lines 1 through 14.

Page 90, between lines 6 and 7, begin a new paragraph and insert:
"Sec. 11. Notwithstanding section 1(b)(2) and 1(b)(3) of this chapter, after June 30, 2009, a political subdivision that provides broadband service in an area in the political subdivision's jurisdiction in accordance with this chapter may provide:

(1) value added services providing text, graphic, video, or audio program content for a purpose other than transmission; or

(2) video programming or other programming described in section 1(b)(3) of this chapter;

through the same facilities, equipment, or technology used by the political subdivision to provide broadband service under this chapter.

Sec. 12. (a) This section applies to a political subdivision that controls, owns, or otherwise has an interest in any facilities, equipment, or technology that may be used to provide communications service.

(b) This chapter does not prohibit a political subdivision described in subsection (a) from entering into an agreement at any time with another person to allow the other person to use the political subdivision's facilities, equipment, or technology to provide communications service, including any services described in section 11 of this chapter, to an area in the political subdivision's jurisdiction. However, a political subdivision that enters into an agreement under this section shall not be responsible for:

(1) determining the content or programming offered as part of the communications service provided through the political subdivision's facilities, equipment, or technology;

(2) billing, advertising, or other operational functions associated with the communications service provided through the political subdivision's facilities, equipment, or technology; or

(3) otherwise providing services directly or indirectly to retail customers."

Page 92, line 27, delete **"division"** refers to the division of" and insert **"office"** refers to the office of utility consumer counselor created by IC 8-1-1.1-2."

Page 92, delete lines 28 through 29.

Page 93, delete lines 2 through 10.

Page 93, line 11, delete **"(g)"** and insert **"(f)"**.

Page 93, line 12, delete **"division"** and insert **"office"**.

Page 93, line 12, delete **"2009:"** and insert **"2009, take any action necessary"**.

Page 93, delete lines 13 through 14.

Page 93, run in lines 12 through 15.

Page 93, line 18, delete **"(h)"** and insert **"(g)"**.

Renumber all SECTIONS consecutively.

(Reference is to SB 245 as printed January 12, 2006.)

HERSHMAN

Motion prevailed.

SENATE MOTION (Amendment 245-3)

Madam President: I move that Senate Bill 245 be amended to read as follows:

Page 70, between lines 2 and 3, begin a new line double block indented and insert:

"(E) That the applicant agrees to offer, in each service area in Indiana to be served by the applicant, at least one (1) service tier or package that allows a subscriber to choose the programming channels that comprise the service tier or package, to the extent such a service tier or package is authorized under federal law."

Page 72, between lines 2 and 3, begin a new paragraph and insert:

"(e) The commission shall require, as a condition of receiving or holding a certificate under this chapter, a provider to offer, in each service area included in the provider's certificate, at least one (1) service tier or package described in section 16(b)(1)(E) of this chapter."

(Reference is to SB 245 as printed January 12, 2006.)

WYSS

Motion prevailed.

SENATE MOTION (Amendment 245-14)

Madam President: I move that Senate Bill 245 be amended to read as follows:

Page 1, delete lines 1 through 15.

Delete page 2.

Page 3, delete lines 1 through 3, begin a new paragraph and insert:

"SECTION 1. IC 8-1-1.1-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2009]: **Sec. 5.5. (a) After June 30, 2009, the counselor shall have jurisdiction over the following:**

(1) All duties and responsibilities exercised by the commission's consumer protection division before July 1, 2009, with respect to telecommunications providers.

(2) The responsibilities of the commission under IC 8-1-2.9 to:

(A) approve a telecommunications provider's petition to provide caller ID service; and

(B) approve either per-call or per-line blocking of caller ID service for law enforcement and crisis intervention agencies;

before July 1, 2009.

(b) As necessary to fulfill its duties under this section with respect to telecommunications providers, the counselor may exercise any power available to commission under IC 8-1-2 with respect to public utilities, including the power to investigate a complaint filed by a consumer against a telecommunications provider."

Page 16, between lines 3 and 4, begin a new paragraph and insert:

"(h) After June 30, 2009, a provider that offers basic telecommunications service in Indiana must offer a flat monthly rate with unlimited local calling for basic telecommunications service in each local exchange area in Indiana in which the provider offers basic telecommunications service."

Page 22, line 17, "chapter:" and insert **"chapter, except as otherwise provided in this subsection:"**.

Page 23, line 6, delete "Perform," and insert **"After June 30, 2009, perform"**.

Page 23, line 17, delete "Require" and insert **"After June 30, 2009, require"**.

Page 24, between lines 19 and 20, begin a new line block indented and insert:

"(11) Establish and administer the Indiana Lifeline assistance program under IC 8-1-36."

Page 24, line 21, delete "division of consumer protection of the" and insert **"office of utility consumer counselor created by IC 8-1-1.1-2,"**.

Page 24, delete line 22.

Page 24, line 23, delete "the division's authority under IC 4-6-9,".

Page 24, line 27, delete "involving the investigation and" and insert **"with respect to telecommunications providers."**

Page 24, delete lines 28 through 29.

Page 24, delete lines 36 through 38.

Page 31, line 21, after "chapter," insert **"office" refers to the office of utility consumer counselor created by IC 8-1-1.1-2."**

Page 31, delete lines 22 through 23.

Page 32, line 5, delete "division;" and insert **"office;"**.

Page 32, line 7, delete "division." and insert **"office."**

Page 32, line 14, delete "division" and insert **"office"**.

Page 32, delete lines 15 through 42.

Page 33, delete lines 1 through 15.

Page 60, line 20, delete "division of consumer protection of the office of the" and insert **"office of utility consumer counselor created by IC 8-1-1.1-2."**

Page 60, delete line 21.

Page 61, line 8, delete "division of consumer protection of the office of the" and insert **"office of utility consumer counselor**

created by IC 8-1-1.1-2."

Page 61, delete line 9.

Page 64, delete lines 34 through 36.

Page 64, line 37, delete "Sec. 5. As used in this section," and insert **"Sec. 4. As used in this chapter,"**.

Page 65, between lines 2 and 3, begin a new paragraph and insert:

"Sec. 5. As used in this chapter, "office" refers to the office of utility consumer counselor created by IC 8-1-1.1-2."

Page 65, line 8, delete "A" and insert **"After March 27, 2006, a"**.

Page 65, line 28, delete "void." and insert **"void if the contract, agreement, or arrangement is entered into after March 27, 2006. However, a contract, an agreement, or any other arrangement that otherwise violates this section remains in effect until such time as it would normally terminate or expire if the contract, agreement, or arrangement is entered into before March 28, 2006."**

Page 66, line 18, delete "division;" and insert **"office;"**.

Page 66, line 19, delete "division" and insert **"office"**.

Page 66, line 23, delete "division." and insert **"office."**

Page 66, line 30, delete "division" and insert **"office"**.

Page 90, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 59. IC 8-1-36 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 36. Indiana Lifeline Assistance Program

Sec. 1. This chapter applies to an incumbent local exchange carrier that offers basic telecommunications service in one (1) or more exchange areas in Indiana.

Sec. 2. Except as otherwise provided in this chapter, the definitions in IC 8-1-2.6 apply throughout this chapter.

Sec. 3. As used in this chapter, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

Sec. 4. As used in this chapter, "customer" refers to a residential customer that receives basic telecommunications service from an incumbent local exchange carrier.

Sec. 5. As used in this chapter, "eligible customer" refers to a customer who:

(1) is not a qualifying low-income consumer (as defined in

47 CFR 54.400(a)) under the federal Lifeline program; but

(2) is eligible for the Indiana Lifeline assistance program

under section 11 of this chapter.

Sec. 6. As used in this chapter, "eligible telecommunications carrier" refers to an incumbent local exchange carrier that is designated as an eligible telecommunications carrier by the commission under 47 CFR 54.201.

Sec. 7. As used in this chapter, "federal Lifeline program" refers to the retail local service offering:

(1) available only to qualifying low-income consumers (as defined in 47 CFR 54.400(a));

(2) for which qualifying low-income consumers pay reduced charges as a result of the application of the Lifeline support amount described in 47 CFR 54.403; and

(3) that includes the services and functionalities set forth in 47 CFR 54.101(a)(1) through (a)(9);

as described in 47 CFR 54.401.

Sec. 8. As used in this chapter, "participant" refers to an eligible customer who applies for and receives assistance through the program.

Sec. 9. As used in this chapter, "program" refers to the Indiana Lifeline assistance program established by the commission under section 10 of this chapter.

Sec. 10. (a) Not later than July 1, 2008, the commission shall adopt rules under IC 4-22-2 to establish the Indiana Lifeline assistance program. The program shall offer reduced charges for basic telecommunications service to eligible customers. The rules adopted by the commission under this section must do the following:

- (1) Require an eligible telecommunications carrier to offer toll limitation (as defined in 47 CFR 54.400(d)) to an eligible customer who applies for assistance under the program. The rules must specify that an eligible telecommunications carrier may not charge a participant an administrative charge or any other additional amount for toll limitation.
- (2) Allow an eligible telecommunications carrier to block a participant's access to interexchange service, except for access to toll free numbers, if the participant owes an outstanding amount for basic telecommunications service. The rules must require an eligible telecommunications carrier to remove the block without additional cost to the participant upon payment of the outstanding amount.
- (3) Prohibit an eligible telecommunications carrier from discontinuing basic telecommunications service to a participant because of nonpayment by the participant of charges for other services billed by the eligible telecommunications carrier, including interexchange service.

(b) The following costs of the program shall be paid from the telecommunications budgets of the commission and the office of utility consumer counselor as determined under IC 8-1-6-1:

- (1) The costs of reimbursing eligible telecommunications carriers for lost revenues associated with providing reduced charges for basic telecommunications service to participants.
- (2) Reasonable expenses incurred by the commission and eligible telecommunications carriers to:
 - (A) administer the program; and
 - (B) publicize the availability of the program in a manner reasonably designed to reach eligible customers.

(c) The rules adopted by the commission under IC 4-22-2 to establish the program must:

- (1) take effect not later than July 1, 2009;
- (2) be consistent with this chapter.

Upon the effective date of the rules adopted by the commission under this section, an eligible telecommunications carrier shall offer basic telecommunications service to an eligible customer at the reduced rates established under the rules.

Sec. 11. A customer is eligible to receive reduced rates for basic telecommunications service under the program if:

- (1) the customer's income (as defined in 47 CFR 54.400(f)) does not exceed one hundred fifty percent (150%) of the federal poverty guidelines; or
- (2) any person in the customer's household receives or has a child who receives any of the following:
 - (A) Medicaid.
 - (B) Food stamps.
 - (C) Supplemental Security Income.
 - (D) Federal public housing assistance.

(E) Home energy assistance under a program administered by the division of family resources under IC 12-14-11.

(F) Assistance under the federal Temporary Assistance to Needy Families (TANF) program (45 CFR 260 et seq.).

(G) Free lunches under the national school lunch program.

Sec. 12. An eligible telecommunications carrier may seek Tier Three federal Lifeline support under 47 CFR 54.403(a)(3) in connection with support provided by the eligible telecommunications carrier under this chapter."

Page 92, line 27, delete "'division" refers to the division of" and insert "'office" refers to the office of utility consumer counselor created by IC 8-1-1.1-2."

Page 92, delete lines 28 through 29.

Page 93, delete lines 2 through 10.

Page 93, line 11, delete "(g)" and insert "(f)".

Page 93, line 12, delete "division" and insert "office".

Page 93, line 12, delete "2009:" and insert "**2009, take any action necessary**".

Page 93, delete lines 13 through 14.

Page 93, run in lines 12 through 15.

Page 93, line 18, delete "(h)" and insert "(g)".

Renumber all SECTIONS consecutively.

(Reference is to SB 245 as printed January 12, 2006.)

CRAYCRAFT

Motion prevailed.

SENATE MOTION

(Amendment 245-4)

Madam President: I move that Senate Bill 245 be amended to read as follows:

Page 19, delete lines 27 through 38.

Page 19, line 39, delete "(3)" and insert "(2)".

Page 23, delete lines 13 through 16.

Page 23, line 17, delete "(9)" and insert "(8)".

Page 24, line 16, delete "(10)" and insert "(9)".

Page 25, line 15, delete "(d)(9)(A)." and insert "(d)(8)(A).".

Page 57, line 13, delete "video service (as defined in IC 8-1-34-14);" and insert "**cable service (as defined in 47 U.S.C. 522(6)) or another functionally equivalent service that involves the transmission of video programming (as defined in 47 U.S.C. 522(20)) or other programming service (as defined in 47 U.S.C. 522(14)) to subscribers, without regard to the technology used;**".

Page 64, line 22, delete "video service (as defined in IC 8-1-34-14);" and insert "**cable service (as defined in 47 U.S.C. 522(6)) or another functionally equivalent service that involves the transmission of video programming (as defined in 47 U.S.C. 522(20)) or other programming service (as defined in 47 U.S.C. 522(14)) to subscribers, without regard to the technology used;**".

Page 64, line 29, delete "IC 8-1-34-1)" and insert "IC 23-1-43-1)".

Page 67, delete lines 23 through 42.

Delete pages 68 through 83.

Page 84, delete lines 1 through 4.

Page 84, line 40, delete "video service (as defined in IC 8-1-34-14);" and insert "**cable service (as defined in 47 U.S.C. 522(6)) or another functionally equivalent service that involves**".

the transmission of video programming (as defined in 47 U.S.C. 522(20)) or other programming service (as defined in 47 U.S.C. 522(14)) to subscribers, without regard to the technology used;"

Renumber all SECTIONS consecutively.

(Reference is to SB 245 as printed January 12, 2006.)

FORD

Upon request of Senator Ford the President ordered the roll of the Senate to be called. Roll Call 21: yeas 13, nays 32.

Motion failed.

SENATE MOTION
(Amendment 245-6)

Madam President: I move that Engrossed Senate Bill 245 be amended to read as follows:

Page 9, between lines 17 and 18, begin a new line block indented and insert:

"(5) Not more than three (3) additional vertical services through or for the customer's primary line, including any of the following:

(A) Call waiting.

(B) Caller ID.

(C) An additional directory listing.

(D) Automatic call return.

(E) Three-way calling.

(F) Call blocking.

(G) Automatic redial."

Page 9, line 42, delete "contracts;" and insert **"contracts that provide services other than those set forth in section 0.1(b)(5) of this chapter for a residential customer;"**.

Page 12, delete lines 20 through 42.

Delete pages 13 through 15.

Page 16, delete lines 1 through 3.

Renumber all SECTIONS consecutively.

(Reference is to SB 245 as printed January 12, 2006.)

FORD

Motion withdrawn.

SENATE MOTION
(Amendment 245-13)

Madam President: I move that Engrossed Senate Bill 245 be amended to read as follows:

Page 16, between lines 3 and 4, begin a new paragraph and insert:

"(h) After June 30, 2009, a provider that offers basic telecommunications service in Indiana:

(1) must offer a flat monthly rate with unlimited local calling for basic telecommunications service in each local exchange area in Indiana in which the provider offers basic telecommunications service; and

(2) may not, in any local exchange area in Indiana in which the provider offers basic telecommunications service, offer any service plan for basic telecommunications service that includes measured local service."

Page 64, line 37, delete "section," and insert **"chapter,"**.

(Reference is to SB 245 as printed January 12, 2006.)

SIMPSON

Motion prevailed.

SENATE MOTION
(Amendment 245-15)

Madam President: I move that Senate Bill 245 be amended to read as follows:

Page 15, between lines 30 and 31, begin a new paragraph and insert:

"(g) If, after a hearing under subsection (e), the commission determines that the provider offers broadband service to fifty percent (50%) of the households in the local exchange area as required under subsection (e), the provider shall reinvest an amount equal to the incremental revenue accruing to the provider as a result of all rate increases imposed by the provider under subsection (c) or (d) in any of the following:

(1) Facilities, equipment, or technology used to provide communications service (as defined in section 13 of this chapter) to Indiana customers, including customers in underserved or rural areas.

(2) Service quality initiatives designed to improve the delivery of basic telecommunications service to Indiana customers.

(3) Other programs and infrastructure designed to benefit Indiana customers."

Page 15, line 31, delete "(g)" and insert "(h)".

Page 16, between lines 3 and 4, begin a new paragraph and insert:

"(i) After June 30, 2009, a provider may not raise the provider's rates for basic telecommunications service for a particular customer class in Indiana above the rates for basic telecommunications service for the particular customer class that are in effect on June 30, 2009."

Page 16, line 12, delete "The" and insert **"A tariff filed under this subdivision may not include rates for basic telecommunications service that exceed those allowed under section 1.3(i) of this chapter. Subject to section 1.3(i) of this chapter, the"**.

Page 16, line 22, delete "to the sole issue of the provider's compliance with the" and insert **"to one (1) or both of the following issues:**

(1) The filed tariff's compliance with section 1.3(i) of this chapter.

(2) The provider's compliance with the filed tariff."

Page 16, line 23, delete "filed tariff."

(Reference is to SB 245 as printed January 12, 2006.)

SIMPSON

Upon request of Senator Simpson the President ordered the roll of the Senate to be called. Roll Call 22: yeas 16, nays 29.

Motion failed. The bill was ordered engrossed.

Senate Bill 161

Senator Miller called up Senate Bill 161 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 88

Senator Wyss called up Senate Bill 88 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 355

Senator Lawson called up Senate Bill 355 for second reading. The bill was read a second time by title.

SENATE MOTION
(Amendment 355-1)

Madam President: I move that Senate Bill 355 be amended to read as follows:

Page 5, line 8, delete ":" and insert "**the taxpayer or the taxpayer's representative**".

Page 5, line 9, delete "the taxpayer".

Page 5, line 12, delete "the taxpayer".

Page 5, line 15, delete "An" and insert "**The taxpayer or an**".

Page 5, line 17, delete "An" and insert "**The taxpayer or an**".

Page 5, line 18, after "taxpayer" insert "**or the taxpayer's representative**".

Page 5, line 25, after "taxpayer" insert "**or a taxpayer's representative**".

Page 5, line 29, after "taxpayer" insert "**or the taxpayer's representative**".

(Reference is to SB 355 as printed January 20, 2006.)

LAWSON

Motion prevailed. The bill was ordered engrossed.

Senate Bill 191

Senator Wyss called up Senate Bill 191 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 208

Senator Dillon called up Senate Bill 208 for second reading. The bill was read a second time by title.

SENATE MOTION
(Amendment 208-1)

Madam President: I move that Senate Bill 208 be amended to read as follows:

Page 3, line 8, after "subsection." insert "**The bureau shall inform an applicant that submission of information under this subsection is voluntary**".

Page 4, line 26, after "subsection." insert "**The bureau shall inform an applicant that submission of information under this subsection is voluntary**".

(Reference is to SB 208 as printed January 20, 2006.)

TALLIAN

Motion prevailed. The bill was ordered engrossed.

Senate Bill 2

Senator Drozda called up Senate Bill 2 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 362

Senator Ford called up Senate Bill 362 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 234

Senator Gard called up Senate Bill 234 for second reading. The bill was read a second time by title.

SENATE MOTION
(Amendment 234-1)

Madam President: I move that Senate Bill 234 be amended to read as follows:

Page 11, line 35, delete "existing" and insert "**designated**".

(Reference is to SB 234 as printed January 20, 2006.)

GARD

Motion prevailed. The bill was ordered engrossed.

Senator Garton yielded the gavel to Senator Merritt.

Pursuant to prior authorization from Senator Jackman, Senator Gard called up Senate Bill 87 for Second Reading.

Senate Bill 87

Senator Gard called up Senate Bill 87 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 256

Senator Landske called up Senate Bill 256 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 154

Senator Heinold called up Senate Bill 154 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 247

Senator Wyss called up Senate Bill 247 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 297

Senator Hershman called up Senate Bill 297 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 133

Senator Kruse called up Senate Bill 133 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 296

Senator Kenley called up Senate Bill 296 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 258

Senator Kenley called up Senate Bill 258 for second reading. The bill was read a second time by title.

SENATE MOTION
(Amendment 258-1)

Madam President: I move that Senate Bill 258 be amended to read as follows:

Page 1, line 10, delete "a single itemized" and insert "**one (1) non-itemized**".

(Reference is to SB 258 as printed January 20, 2006.)

KENLEY

Motion prevailed. The bill was ordered engrossed.

Senate Bill 92

Senator Paul called up Senate Bill 92 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 260

Senator Kenley called up Senate Bill 260 for second reading. The bill was read a second time by title.

SENATE MOTION
(Amendment 260-1)

Madam President: I move that Senate Bill 260 be amended to read as follows:

Page 38, between lines 7 and 8, begin a new paragraph and insert: "SECTION 31. IC 6-1.1-36-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 12. (a) **For purposes of this section**, a board of county commissioners, a county assessor, or an elected township assessor may enter into a ~~properly approved~~ contract for the discovery of property that has been undervalued or omitted from assessment. The contract must prohibit payment to the contractor for discovery of undervaluation or omission with respect to a parcel or personal property return before all appeals of the assessment of the parcel or the assessment under the return have been finalized. The contract may require the contractor to:

(1) examine and verify the accuracy of personal property returns filed by taxpayers with a township assessor of a township in the county; and

(2) compare a return with the books of the taxpayer and with personal property owned, held, possessed, controlled, or occupied by the taxpayer.

(b) The investigation and collection expenses of a contract under subsection (a) may be deducted from the gross amount of taxes collected on the undervalued or omitted property that is so discovered. **Subject to subsection (c)**, the remainder of the taxes collected on the undervalued or omitted property shall be distributed to the appropriate taxing units.

(c) **This subsection applies if funds are not budgeted for payment of services performed under a contract described in subsection (a). The county auditor may create a special nonreverting fund in which the county treasurer may deposit the net amount of taxes, including penalties and interest, that result from additional assessments on undervalued or omitted property collected from all taxing jurisdictions in the county. The fund remains in existence during the term of the contract. Distributions shall be made from the fund only for the following purposes:**

- (1) All refunds due to taxpayers as a result of the contract.**
- (2) All contract fees and other costs related to the contract.**
- (3) After the payments required by subdivisions (1) and (2) have been made and the contract has expired, all money remaining in the fund shall be distributed by the county auditor to the appropriate taxing units in the county.**

(c) (d) A board of county commissioners, a county assessor, or an elected township assessor may not contract for services under subsection (a) on a percentage basis."

Renummer all SECTIONS consecutively.

(Reference is to SB 260 as printed January 20, 2006.)

KENLEY

Motion prevailed. The bill was ordered engrossed.

Senator Merritt yielded the gavel to Senator Garton.

Senate Bill 295

Senator Paul called up Senate Bill 295 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 12

Senator Long called up Senate Bill 12 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 379

Senator Ford called up Senate Bill 379 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 169

Senator Miller called up Senate Bill 169 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 346

Senator Meeks called up Senate Bill 346 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 114

Senator Zakas called up Senate Bill 114 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 41

Senator Miller called up Senate Bill 41 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 246

Senator Wyss called up Senate Bill 246 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 78

Senator Heinold called up Senate Bill 78 for second reading. The bill was read a second time by title.

SENATE MOTION
(Amendment 78-1)

Madam President: I move that Senate Bill 78 be amended to read as follows:

Replace the effective dates in SECTIONS 1 through 2 with "[EFFECTIVE UPON PASSAGE]".

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-1.1-1-11, AS AMENDED BY P.L.214-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Subject to the limitation contained in subsection (b), "personal property" means:

- (1) nursery stock that has been severed from the ground;
- (2) florists' stock of growing crops which are ready for sale as pot plants on benches;
- (3) billboards and other advertising devices which are located on real property that is not owned by the owner of the devices;
- (4) motor vehicles, mobile houses, airplanes, boats not subject to the boat excise tax under IC 6-6-11, and trailers not subject to the trailer tax under IC 6-6-5;
- (5) foundations (other than foundations which support a building or structure) on which machinery or equipment is installed;

(6) fences that are:

(A) installed or placed in service after March 15, 2006; and

(B) used for the purpose of providing security for a fertilizer or pesticide by:

- (i) restricting access to or control of; or**
- (ii) conducting surveillance on or detecting unauthorized access to;**

the fertilizer or pesticide; and

~~(6)~~ **(7) all other tangible property (other than real property) which is being:**

- (A) held for sale in the ordinary course of a trade or business;**
- (B) held, used, or consumed in connection with the production of income; or**
- (C) held as an investment.**

(b) Personal property does not include the following:

- (1) Commercially planted and growing crops while they are in the ground.**
- (2) Computer application software that is not held as inventory (as defined in IC 6-1.1-3-11)."**

Page 2, line 1, after "of" insert **"any tangible personal property that is:**

- (1) installed or placed in service after March 15, 2006; and**
- (2) used for the purpose of providing security for a fertilizer or pesticide by:**

(A) restricting access to or control of; or

(B) conducting surveillance on or detecting unauthorized access to;

the fertilizer or pesticide."

Page 2, delete lines 2 through 7.

Page 2, delete lines 15 through 20, begin a new paragraph and insert:

"(d) The total annual amount of the deduction that a person may receive under:

(1) subsection (b) for tangible personal property installed or placed in service; and

(2) subsection (c) for the assessed value of a chemical added to and designed to deter the theft of a fertilizer or pesticide; at a facility may not exceed fifty thousand dollars (\$50,000)."

Page 2, line 24, delete "With respect".

Page 2, delete line 25.

Page 2, line 26, delete "of the assessment year. With respect to personal property, the" and insert **"In addition to the certified statement, the person must file a certification by the state chemist that the property for which the deduction is claimed has been installed or placed in service. The"**.

Page 2, line 27, after "statement" insert **"and certification"**.

Page 2, between lines 35 and 36, begin a new paragraph and insert:

"(f) A person that qualifies for a deduction for a year under this section and under IC 6-1.1-12.4 with respect to the same property may not receive a deduction under both this section and IC 6-1.1-12.4 for the property."

Page 2, line 38, delete "2007." and insert **"2006."**

Page 2, after line 38, begin a new paragraph and insert:

"SECTION 4. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

(Reference is to SB 78 as printed January 20, 2006.)

WEATHERWAX

Motion prevailed. The bill was ordered engrossed.

Senate Bill 147

Senator Gard called up Senate Bill 147 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 60

Senator Kenley called up Senate Bill 60 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 148

Senator Riegsecker called up Senate Bill 148 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 112

Senator Riegsecker called up Senate Bill 112 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 168

Senator Miller called up Senate Bill 168 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 269

Senator Miller called up Senate Bill 269 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 310

Senator Alting called up Senate Bill 310 for second reading. The bill was read a second time by title.

SENATE MOTION
(Amendment 310-1)

Madam President: I move that Senate Bill 310 be amended to read as follows:

Page 1, line 6, delete "may" and insert "**shall**".

Page 2, delete lines 6 through 7.

Page 2, line 8, delete "(6)" and insert "**(5)**".

(Reference is to SB 310 as printed January 20, 2006.)

ALTING

Motion prevailed. The bill was ordered engrossed.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure reports that, pursuant to Senate Rule 33(c), the following technical corrections are to be made to Senate Bill 75.

Delete the title and insert the following:

"A BILL FOR AN ACT to amend the Indiana Code concerning veteran's affairs."

(Reference is to SB 75 as printed January 20, 2006.)

GARTON

Report adopted.

**ENGROSSED SENATE BILLS
ON THIRD READING**

Engrossed Senate Bill 42

Senator Miller called up Engrossed Senate Bill 42 for third reading:

A BILL FOR AN ACT concerning human services.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 23: yeas 46, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsor: Representative Frizzell.

Engrossed Senate Bill 84

Senator Long called up Engrossed Senate Bill 84 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 24: yeas 46, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsors: Representatives Foley, Kuzman, Ulmer, and Van Haaften.

Senator Garton yielded the gavel to Senator Harrison.

Engrossed Senate Bill 172

Senator Lubbers called up Engrossed Senate Bill 172 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning education.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 25: yeas 31, nays 15. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsor: Representative Behning.

SENATE MOTION

Madam President: I move that Senator Kenley be added as coauthor of Senate Bill 217.

BRODEN

Motion prevailed.

SENATE MOTION

Madam President: I move that Senators Wyss and Howard be added as coauthors of Engrossed Senate Bill 84.

LONG

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Wyss be added as second author of Senate Bill 235.

GARD

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Heinold be added as coauthor of Senate Bill 17.

ZAKAS

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Hume be added as coauthor of Senate Bill 78.

HEINOLD

Motion prevailed.

SENATE MOTION

Madam President: I move that Senators Simpson and Hume be added as coauthors of Engrossed Senate Bill 346.

MEEKS

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Broden be added as second author of Engrossed Senate Bill 114.

ZAKAS

Motion prevailed.

SENATE MOTION

Madam President: I move that Senators Mrvan and Delph be added as coauthors of Senate Bill 363.

FORD

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Kenley be added as second author of Senate Bill 55.

HARRISON

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Kenley be added as second author of Senate Bill 56.

HARRISON

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Delph be added as coauthor of Engrossed Senate Bill 2.

DROZDA

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Miller be added as coauthor of Senate Bill 2.

DROZDA

Motion prevailed.

SENATE MOTION

Madam President: I move that Senators Lanane and Heinold be added as coauthors of Senate Bill 208.

DILLON

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Craycraft be added as coauthor of Senate Bill 33.

ALTING

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Hume be added as second author of Senate Bill 314.

NUGENT

Motion prevailed.

SENATE MOTION

Madam President: I move we adjourn until 1:30 p.m., Tuesday, January 24, 2006.

GARTON

Motion prevailed.

The Senate adjourned at 6:48 p.m.

MARY C. MENDEL
Secretary of the Senate

REBECCA S. SKILLMAN
President of the Senate